

10/511,982

P-2552

REPLY

The Examiner rejected claims 1-10, 12-13, 16-26, 29, 32-34, 37-39 and 42 under 35 USC §102(b) as being anticipated by Carr.

The Examiner also rejected claims 1 and 40-41 under 35 USC §102(b) as being anticipated by Noe, et al.

The Examiner also rejected claims 11-12, 14 and 35-36 under 35 USC §103(a) as being unpatentable over Carr in view of Stelmach.

The Examiner also rejected claims 2 and 42 under 35 USC §103(a) as being unpatentable over Carr in view of McDevitt et al.

The Examiner rejected claim 43 under 35 USC §103(a) as being unpatentable over Carr in view of Kaminski et al.

The Examiner has failed to indicate any specific rejection of claims 15, 28, 30 and 31. However, this appears to have been an unintended oversight by the Examiner.

Carr (5,765,252) discloses a finger brush having bristles 16 and bumps or dimples 38. The bristles 16 include a coating formed of a layer 26 of dehydrated toothpaste.

Stelmach (6,116,252) discloses a finger mounted toothbrush including a lanyard. Dental powered or paste is either added or already present in the tooth cleaning bristles 4.

Noe et al (6,119,296) discloses a toothbrush having a cleaning device, template, on one side. A template 90 is placed in a pocket 88 that may include mouthwash 92 or some other similar liquid.

McDevitt et al (6,721,987) discloses an oral cleaning device fit onto a human finger. Various additives can be applied, such as dental agents, flavoring agents, or anti-microbial agents.

10/511,982

P-2552

In the final Office Action, the Examiner indicated that the only claim that clearly recites a dispersible substance is new claim 43. The Examiner indicated that a new reference with a dispersible substance has been found to treat claim 43. The Examiner newly cited Kaminski et al. Kaminski et al discloses an inter-dental foam brush that is impregnated with a pharmaceutically effective amount of an agent for treating the gums or teeth as well as suitable flavors.

In rejecting claim 43, the Examiner indicated that all the claimed elements were known in the prior art as shown by Kaminski et al having a dispersible substance which provides cleaning substance for teeth and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skills in the art at the time the invention was made, citing *KSR or KSR International Company v. Teleflex, Inc.*, 82 USPQ2nd 1385 (US Supreme Court 2007). The Examiner's reliance on *KSR International* is misplaced. The present invention is something more than a combination which only unites old elements with no change in their respective function. The function of the teachings of the impregnated foam brush disclosed in Kaminski et al is changed in the present invention. In the present invention, the covering of the outer surface of the main body with bristles changes the

10/511,982

P-2552

function of the impregnated foam brush with no covering as disclosed in Kaminski et al. As recognized in *KSR International*, inventions usually rely on building blocks long since uncovered and claimed discoveries almost necessarily will be combinations of what in some sense is already known. The present invention is something more than the predictable use of prior art elements according to their established functions.

In an effort to expedite and emphasize specific features of the present invention, claims 1-42 have been cancelled. Claims 43 and new claims 44-49 remain in the application.

Claim 43 recites the combination of an inner main body impregnated with a dispersible substance in combination with bristles covering an outer surface. This structure of an impregnated inner body and a bristle covering is not disclosed in the references cited by the Examiner and in particular the Carr and Kaminski et al patents relied upon by the Examiner. Carr only discloses an exterior coating of a layer 26 of dehydrated toothpaste on bristles 16. There is no disclosure of an inner body impregnated with a dispersible substance. Similarly, Kaminski et al discloses an interdental foam brush which can be impregnated with a pharmaceutically effective amount of at least one agent for treating the gums or teeth in the form of a coating, solution, paste or gel. In Kaminski et al this impregnated interdental foam brush is used to directly contact

10/511,982

P-2552

the teeth or gums and does not have bristles covering an outer surface as recited in claim 43. The present invention, as recited in claim 43, creates a new synergy of elements that work together in a fruitful manner that would not have been obvious from the references cited by the Examiner. The combination of the bristles used for cleaning and covering an inner body having a dispersible substance impregnated therein facilitates the release of the dispersible substance from the inner main body through the bristles which contact the teeth and gums. Therefore, an additional function of a controlled release of the dispersible substance is obtained that cannot be found in the references cited by the Examiner. Therefore, the advancement as disclosed in the present application would not have occurred in the ordinary course and includes an additional function that could not have been obtained from the cited references. Additionally, claim 43 recites engaging means for engaging a human tongue. Neither Carr nor Kaminski et al disclose an engaging means for engaging a human tongue. The finger brush disclosed in Carr is held by a finger, and the interdental foam brush disclosed in Kaminski et al is held by a brush handle 22. Therefore, even if the different elements of Carr and Kaminski et al could be combined, the present invention as claimed in claim 43 would not be formed due to the lack of an engaging means for engaging a human tongue. Therefore, claim 43 should be allowable.

10/511,982

P-2552

Dependent claim 44 recites the additional limitation that the engaging means comprises a through hole. Carr and Kaminski et al do not disclose a tooth cleaning device that has a through hole that could be used as an engaging means for engaging a human tongue. Therefore, claim 44 should additionally be allowable.

Independent claim 46 has been added. Independent claim 46 more clearly recites the inner main body having a donut shape with a through hole and an inner cylindrical surface. This more specific shape is suited to engage the human tongue so as to permit manipulation by the human tongue causing controlled contact with the teeth and gums so as to remove food particles and release the dispersible substance from the inner main body.

New independent claim 49 has also been added to recite a different embodiment of the present invention. Claim 49 recites an elongated main body that is deformable having a cross section comprising a linear portion and a curved portion. The elongated main body is deformable and may be formed into a shape having a through hole. Accordingly, this embodiment of the present invention permits the tooth cleaning device to more closely conform to the shape of the human tongue, so as to be held thereon, and facilitates manipulation by the tongue to clean the teeth and gums within the user's mouth. This creates an improved device that is not disclosed or in any way could be considered obvious in view of the references cited by the Examiner. Clearly

10/511,982

P-2552

the embodiment as recited in claim 49 cannot be considered a mere combination which only unites old elements with no change in their respective functions. None of the references cited by the Examiner disclose an elongated main body that is deformable having a cross section comprising a linear portion and a curved portion that has the function of forming a shape having a through hole. Therefore there is a substantial change of function of the elements in the present invention that is not possible in the references cited by the Examiner. Therefore, claim 49 should be allowable.

The present invention as now more specifically claimed should render the application allowable. The present invention as claimed provides a new and non-obvious tooth cleaning device that can be contained within the user's mouth and manipulated by the tongue so as to release the dispersible substance in a controlled manner increasing its effectiveness. None of the devices disclosed in the references cited by the Examiner function in this way and also do not have a structure of an inner main body impregnated with a disbursable substance.

10/511,982

P-2552

Therefore, it is respectfully requested that the Examiner reconsider the present application and indicate allowable subject matter.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

Paul A. Fattibene
Reg. No. 31,694

2480 Post Road
Southport, CT 06890
Tel. 203-255-4400
Fax 203-259-0033

September 17, 2009